IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH
&
THE HONOURABLE MR. JUSTICE K.T.SANKARAN

FRIDAY, THE 9TH MARCH 2007 / 18TH PHALGUNA 1928

Ins.APP.No. 58 of 2004()

(IC.21/2002 of ESI COURT, PALAKKAD)
.....

: APPELLANT/APPLICANT:

MARICO INDUSTRIES, KANJIKODE-678 621,
PALAKKAD DISTRICT REP. BY ITS WORKS MANAGER.

BY ADV. SRI.K.ANAND (A.201)
SMT.LATHA KRISHNAN

RESPONDENTS: OPPOSITE PARTY:

THE REGIONAL DIRECTOR,
ESI CORPORATION, THRICHUR.

BY ADV. SRI.T.V.AJAYAKUMAR

THIS INSURANCE APPEALS HAVING BEEN FINALLY HEARD ON 09/03/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

KURIAN JOSEPH & K.T.SANKARAN, JJ.

Ins.Appeal No.58 of 2004

Dated 9th March, 2007.

J U D G M E N T

Kurian Joseph, J.

C.M.Appln.2256/04 : Allowed.

This appeal is directed against the order dated 6.7.2004 in I.C.No.21/02 on the file of the E.I.Court, Palakkad. The E.S.I.Corporation demanded contribution of Rs.4,68,780/- for the period 1992-93 and 1994-95 by issuing C-18 notice. That was followed by Ext.A1 order dated 22.5.2002, demanding contribution for the period from 1.4.1992 to 31.4.1995. The appellant took up the matter before the E.I.Court under Section 75 of the Employees State Insurance Act. The court passed the impugned order directing the Corporation to re-assess the contribution limiting the period to 5 years preceding 11.1.1999, the date on which the observation slip was issued after inspection. The impugned order was passed in the light of the Full Bench decision of this Court reported in **E.S.I.Corporation v. Excel Glasses Ltd.** (2003(3) KLT 42). The Corporation took up the matter before the Supreme Court and in the decision reported in **Employees State Insurance Corporation v. Santhakumar**

(2007(1) KLT 133(SC), the Apex Court has settled the law that there is no such limitation. It was held that the period of five years fixed under Regulation 32(2) of the Regulations is only with regard to the maintenance of registers of the workmen and the same cannot take away the right of the Corporation to adjudicate, determine and fix the liability of the employer under Section 45A of the Act. It was also held that the proviso to clause (b) of Section 77(1A) of the Act, fixing the period of five years for the claim made by the Corporation will apply only in respect of the claim made by the Corporation before the E.S.I.Court and to no other proceedings. In view of the above binding decision, we dismiss the appeal.

KURIAN JOSEPH, JUDGE.

K.T.SANKARAN, JUDGE.

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KURIAN JOSEPH & K.T.SANKARAN, JJ

L.A.A. NO. OF 2004

J U D G M E N T

Dated 9th March, 2007.